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10 UNITED STATES DISTRICT COURT
11 FOR THE EASTERN DISTRICT OF WASHINGTON

12 STARLA BRAHAM,

13 Plaintiff,

14 v.

15 AUTOMATED ACCOUNTS, INC, a
16 Washington Corporation , and
17 MICHELLE DOE and JOHN DOE,
18 husband and wife and the marital
19 community comprised thereof.

20 Defendants.

Case No.: CV-10-385-EFS

PLAINTIFF'S STATEMENT OF
FACTS IN SUPPORT OF
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT

21 1. In January 2008, Ms. Braham visited the emergency room at Deaconess
22

23 and received treatment for an injury she sustained at her workplace.

24 (Braham Dep. 21:10-23:2.)
25

- 1 2. At the time she was injured, Ms. Braham was unable to pay in full for
2 emergency room charges. (Braham Decl. ¶ 4.)
3
- 4 3. Sometime thereafter, Deaconess referred the debt to Defendant
5 Automated Accounts, Inc., a debt collector, for collection. (Braham
6 Dep. 23:4-9.)
7
- 8 4. In late 2008, Automated Accounts contacted Ms. Braham to arrange
9 payment for the Deaconess charges. (Braham Dep. 20:23-21:18, 23:4-
10 9.)
11
- 12 5. Ms. Braham spoke with Defendant Michelle Bull, who works for
13 Automated Accounts, Inc. as a debt collector, on multiple occasions in
14 2008 and 2009. (Braham Dep. 20:23-21:18; Bull Dep. 5:7-8, 13:10-12.)
15
- 16 6. In order to make her October 2009 payment to Automated Accounts,
17 Ms. Braham deposited money into an ATM machine prior to the time
18 she knew Automated Accounts would debit the account. (Braham
19 Decl. ¶ 9.)
20
- 21 7. On November 2, 2009, after a misunderstanding in which the
22 scheduled October payment did not go through, Ms. Bull and Ms.
23 Braham spoke on the telephone. (Braham Decl. ¶ 10-11.)
24
25

1 8. During the November 2, 2009 conversation, Ms. Bull told Ms. Braham
2 that she had spoken with her supervisor and that Defendants were going
3 to start the process of garnishing Ms. Braham's wages. (Braham Dep.
4 34:11-21.)
5

6 9. Ms. Braham asked Ms. Bull what she meant. (Braham Dep. 34:11-21.)
7

8 10. Ms. Bull replied "the legal process". (Braham Dep. 34:11-21.)
9

10 11. When Ms. Braham asked for further clarification, Ms. Bull replied that
11 the "legal process" means garnishing Ms. Braham's wages. (Braham
12 Dep. 34:11-21)
13

14 12. Ms. Bull responded that "legal process" means garnishing Ms.
15 Braham's wages. (Braham Dep. 34:11-21)
16

17 13. Ms. Braham's and Ms. Bull's testimony regarding the November 2,
18 2009 conversation differs slightly but the difference is immaterial. (See
19 generally, Braham Dep. And Bull Dep.)
20

21 14. Ms. Bull testified that during the November 2, 2009 conversation, she
22 told Ms. Braham that Automated Accounts was starting its "legal
23 process" to collect the debt. (Bull Dep. 78:6-14)
24
25

1 15.Ms. Bull testifies that Ms. Braham asked her if garnishment was part of
2 the “legal process”. (Bull Dep. 82:3-5)

3
4 16.Ms. Bull told Ms. Braham that garnishment is part of the “legal
5 process”. (Bull Dep. 82:3-5)

6
7 17.Ms. Bull testifies that when she initially referenced the “legal process”,
8 she was referring to an internal procedure at Automated Accounts
9 wherein she would request an assignment from the original creditor.
10 (Bull Dep. 91:12-16.)

11
12 18.Ms. Bull testifies that when she was responding to Ms. Braham’s
13 question about garnishment during their November 2, 2009
14 conversation she was referring to a different “legal process” than she
15 had previously mentioned. (Bull Dep. 92:10-23.)

16
17 19.At no time did any Defendant have a right to garnish Ms. Braham’s
18 wages. (ECF No. 4 at 5 ¶ 19.)

19
20 20.Ms. Bull testifies she did not explain to Ms. Braham that when she
21 referred to “legal process” it meant requesting a legal assignment, nor
22 did she explain to Ms. Braham which “legal process” might result in
23 garnishment. (Bull Dep. 82:10-15.)
24
25

1 21.Ms. Bull testifies, in fact, that she does not know precisely what
2 happens after she starts the “legal process” of requesting an assignment
3 from a creditor. (Bull Dep. 93:15-94:22)
4

5 22.Ms. Braham has had no legal training and in November 2009 she did
6 not know that a judgment had to be obtained before she could be
7 garnished. (Braham Decl. ¶ 18.)
8

9 23.Following the November 2, 2009 conversation with Ms. Bull, Ms.
10 Braham believed that the Defendants might garnish her at any time.
11 (Braham Decl. ¶ 19.)
12

13 24.Ms. Braham’s worry and stress about her wages being garnished gave
14 her a panic attack later that same day. (Braham Decl. ¶ 20.)
15

16 25.Michelle Bull’s threat that Ms. Braham’s wages would be garnished
17 made Ms. Braham so upset that she was shaking, crying, and having
18 trouble controlling her breathing. (Braham Decl. ¶ 21.)
19

20 26.Following the November 2009 conversation with Ms. Bull, Ms.
21 Braham was terrified for months that the Defendants might take the
22 funds from her bank account or paycheck at any time and make it
23 impossible for her to provide for her family. (Braham Decl. ¶ 24.)
24
25

1 27.The fear caused by Ms. Bull's threat of garnishment was substantially
2 greater than any anxiety Ms. Braham has felt in the past regarding her
3 financial situation. (Braham Decl. ¶ 25.)
4

5 Dated the 6th day of January, 2012.
6

7 *Kirk D. Miller, P.S.*
8

9 /s/ Kirk Miller
10 Kirk D. Miller
WSBA # 40025
Attorney for Plaintiff
11

12 CM/ECF

13 I hereby certify that on the 6th day of January, 2012, I electronically filed
14 the foregoing with the Clerk of the Court using the CM/ECF System which will
15 send notification of such filing to the following:
16

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